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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,498	12/23/2003	Haruhiro Iwaki	024536-0141	7779
22428	7590	03/22/2006	EXAMINER	
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				CAMPBELL, KELLY E
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/743,498	IWAKI, HARUHIRO
	<b>Examiner</b> Kelly E. Campbell	<b>Art Unit</b> 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 13 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,6-12,14,16-19 and 34 is/are rejected.
- 7) Claim(s) 5 and 15 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/23/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,4,6-12,14, are 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harunori et al (Japanese Publication 08-300980) modified by Tanigawa et al (US 4,516,652).

Harunori et al teaches a constant speed running control apparatus for a vehicle, comprising:

an operating section (7,P5,P6) that instructs a change of a target vehicle speed; a vehicle speed detecting section (P1) that detects a vehicle speed; a control section (P3) that controls a driving force of the vehicle so as to coincide the vehicle speed detected in said vehicle speed detecting section to said target vehicle speed;

a releasing section or brake assembly that releases the control of driving force by said control section under a predetermined condition;

wherein, when the control of driving force by said control section is released during the changing operation of target vehicle speed, said setting section sets a target vehicle speed in just before the changing operation of target vehicle speed to the target vehicle speed at the time when the control of driving force by said control section is

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resumed and when the control of driving force by said control section is released during the changing operation of target vehicle speed, provided that a deviation between the target vehicle speed at the time and an actual vehicle speed is a predetermined value or above, said setting section sets the vehicle speed delayed to the change instruction by said operating section to the target vehicle speed at the time when the control of driving force by said control section is resumed.

Harunori et al does not teach a setting section that sets a vehicle speed delayed to the change instruction.

Tanigawa et al teaches a constant speed running control apparatus setting section that sets a vehicle speed delayed (see Column 6-7) to the change instruction (depression of accelerator) by said operating section to a target vehicle speed at the time when the control of driving force by said control section is resumed, when the control of driving force by said control section is released (via braking) during a changing operation of target vehicle speed and wherein said releasing section releases the control of driving force by said control section when either a brake or clutch (interruption operation of transmission) is operated, see Column 5, line 44-45;

And an increasing (accelerating) operation of target vehicle speed has been performed during up-hill running, see C2, line 1-4..

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the constant speed control device taught by Harunori et al to provide a time delayed response after the resume switch is operated, in order to

provide acceleration without creating the feeling of deceleration for a smoother more comfortable ride, see Column 7.

***Allowable Subject Matter***

Claims 5 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hayama et al teaches a constant speed control system for a vehicle with a predetermined time delay after manual switch operation. Tsuyama et al teaches a constant speed cruising system. Naito et al teaches a constant speed control apparatus for a vehicle. Takada et al teaches a vehicle speed control system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E. Campbell whose telephone number is (571) 272-6693. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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